040237

RECEIVED
MAY 28 2004

CHIP MAXFIELD
Chairman

Board of County Commissioners
CLARK COUNTY GOVERNMENT CENTER
[redacted]
FAX [redacted]

May 25, 2004

Ms. Robin Sweeney
Office of National Transportation
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1551 Hillshire Dr. M/S 011
Las Vegas, Nevada 89134

Dear Ms. Sweeney:

The purpose of this letter is to express concerns on behalf of the Clark County Board of County Commissioners regarding the proposed Caliente Rail Corridor Environmental Impact Statement (EIS) scoping process and the impacts associated with the construction of that corridor as they relate to Clark County. We appreciate the opportunity to provide comments on an issue of critical importance to Clark County.

The implementation of the proposed action ensures Clark County will be affected by both the truck and rail transportation of high-level waste and spent nuclear fuel. Although the proposed Caliente rail line does not traverse Clark County, these shipments must pass through Clark County in order to reach the Caliente rail spur. Additionally, the difficulty and expense associated with constructing the rail corridor increases the likelihood that the rail line will never be constructed or will be constructed so late in the program that substantial numbers of truck shipments through Clark County will have to occur.

As it currently stands, the Department of Energy (DOE) plans call for a truck shipping campaign for the first six years following licensing of a high-level radioactive waste repository. Therefore, the proposed action affects only approximately 75 percent of the total number of rail shipments to Yucca. Clark County is concerned about both the process used to conduct the scoping and particular impacts that the DOE should consider.

040237

As part of every EIS process, the Council on Environmental Quality prepares scoping guidance for the Federal agency preparing the EIS. The DOE should release the scoping guidance to the public and it should prepare a scoping report that contains transcripts of the public comments made during the scoping hearings. A significant drawback of the scoping hearings was the failure of the DOE staff to provide a briefing to the public which would provide them with an adequate context to make comments regarding the proposed action and the scoping. Because of that absence of a public record of responses to a presentation, there is no way for oversight agencies to assess what impacts were identified in the hearings. The best way to alleviate these concerns is to publicly publish a scoping report that contains a transcript of comments provided by individuals and agencies, regarding the proposed action.

Some Federal agencies that should be identified as "cooperating agencies" for the EIS were not. First, the Federal Emergency Management Agency (FEMA) can assist DOE in understanding and appraising the natural hazards that will confront DOE during the construction and shipment of this waste. Second, the Nuclear Regulatory Commission (NRC) will be required to certify the physical security of the route and could make useful comments during the development of the final alignment. Third, the Federal Railroad Administration (FRA) should play a role because of the uniqueness of this construction activity. There are numerous issues where FRA can assist. This is particularly true in identifying the organizational issues surrounding the operation of the rail line. For example, designing and inspection program for the rail line, interacting with commercial carriers, and design standards for the rail line are all areas where the expertise of the FRA will be useful.

The National Environmental Policy Act requires three types of facts be considered in any EIS. These effects, direct, indirect, and cumulative are described below. A consistent failure in the DOE's transportation approach is the failure to examine the impacts of the shipment of the waste in a systematic manner that permits an examination of the benefits and costs associated with alternative program configurations. This is made very clear by the failure to consider the significance of routine radiation doses attributable to the shipments. The routine shipment of this waste will entail substantial stops. At these stops, potentially significant doses of radiation will be emitted.

2

As part of this EIS, Clark County Nevada requests that the DOE compare and contrast shipment alternatives in terms of the routine radiation emitted in Clark County, the numbers of shipments to the potential Yucca Mountain facility, and the shipment configuration (e.g., general freight, container on flat car). The EIS should contain a Leopold Matrix that depicts the alternative shipping options contained in the Final EIS and the Supplemental EIS. The impacts should be measured in terms of the bounding and supplemental modal scenarios: Mostly Rail, Mostly Truck, and Container on Flatcar (truck casks on railcars). This comparison should be enhanced by comparing the routine radiation emitted during two shipping configurations: the use of three-car unit trains and the use of general freight. This comparison should be performed for each modal configuration. It should also be prepared for several populations: the off-link population and the occupational population. Finally, the comparison should indicate how many shipments will occur for each of the alternatives and how they will reach the Caliente rail spur and when these shipments can be expected to occur. Using this information, it will be possible for local governments to assess the significance of the impact.

An additional direct effect that should be studied is the degree to which land is disrupted by the construction, operation, maintenance, and closure of the rail spur. Also of concern is the availability of multiple uses for the rail spur. At one of the scoping hearings a local property owner expressed a desire to be able to use the rail line for commercial purposes. If the DOE intends to allow multiple uses, this should be described in detail in the EIS.

The EIS for the proposed action must consider accident related radiation. The area considered for use is filled with natural hazards and the EIS must consider accidents involving natural hazards such as flash floods, wild fires, and earthquakes. The EIS must also examine the relationship between natural hazards, the durability of the cask, and the potential difficulty of recovering a cask lost in a remote area during a natural hazard. Of additional concern is security. The decision to construct a rail line on a circuitous route in a desolate area invites security problems. The EIS must consider the direct effects accidents attributable to terrorist attack.

An additional direct effect is the disturbance of view sheds and the loss of visual resources. This is particularly true in Garden Valley where the sculptor Michael Heizer has been constructing art work for several decades. Finally, the DOE has amassed a body of evidence about the radiological impact of radiation on various native species. The impact assessment should draw on that body of knowledge and explicitly reference it when examining the impact on endangered and threatened species in the area.

One of the indirect effects that must be considered in the EIS is the disturbance of tribal lands and the potential impact on cultural resources. Archeologically useful discoveries are routinely found along the potential route. When added to the significance of the area to Native Americans, it seems likely that the EIS will have to prepare a large amount of new data examining the economic impact on Native Americans, as well as the cultural resources on the route.

An additional indirect effect is the effect on ranchers' grazing rights. Some of these rights extend back to the 1860's and the proposed rail corridor could reduce grazing area significantly. Including data about the grazing corridors and traditions of the area ranchers will be important in selecting a rail line and in identifying mitigation measures. An important part of this is the local ranchers have made significant investments in constructing water systems to access the region's water. These investments constitute that greatest part of the value of the ranchers' grazing rights and should be considered in the EIS.

The cumulative effects associated with the transportation of this waste must be considered in order for the EIS to be complete. In this case, the cumulative impact relates to the radiological hazard and additional traffic accidents imposed on communities along the rail spur and on the communities most affected by the shipments. Shipments of waste by truck and then by rail create an accumulating radiation hazard. Other DOE programs, such as the Waste Isolation Pilot Plant, and the disposal of low- level radioactive waste at the Nevada Test Site combine to create a local situation of unprecedented complexity—three different radioactive waste streams simultaneously traversing a major metropolitan statistical area. The EIS must consider the interrelationship of these programs and their potential impacts.

040237

Clark County appreciates the opportunity to assist the DOE in preparing the EIS for the Caliente rail corridor. The selection of the Caliente corridor makes it virtually impossible that shipments of waste will avoid Clark County and therefore, we have an important interest in the progress of the study. Clark County believes that the DOE can improve its public process by publishing a scoping report and adding cooperating federal agencies. The EIS must consider the impacts described above in a way that reflects the alternative modal and routing scenarios that the DOE has published. Clark County will continue to monitor the progress of the EIS process and provide comments where appropriate.

Sincerely,

Chip Maxfield
Chairman

cc: Board of County Commissioners (6)
Thom Reilly, Clark County Manager
Barbara Ginoulias, Dir. Comp. Planning
Irene Navis, Planning Manager
Robert Loux, State of Nevada

5